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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/936,160	09/10/2001	Akiyoshi Kabe		9208

7590 08/10/2006  
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EXAMINER

RUTTEN, JAMES D

ART UNIT PAPER NUMBER

2192

DATE MAILED: 08/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

09/936,160

Applicant(s)

KABE, AKIYOSHI

Examiner

J. Derek Rutten

Art Unit

2192

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 28 June 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 1-11 and 14-17.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

## Continuation of 3. NOTE:

All independent claims (1, 5, and 10) as well as dependent claim 14 have been amended to include new limitations requiring further consideration and/or search.

Continuation of 11. does NOT place the application in condition for allowance because:

Applicant essentially argues on pages 11-14 that there is no motivation to combine the references. The motivation to combine was previously addressed on pages 3 and 4 of the 2/28/06 Office action. In that action it was pointed out that the references are concerned with software development including the control of external machines in a object-oriented control system (See Wright column 6 lines 12-19). As such, Applicant's arguments are not convincing.

Applicant essentially argues on pages 14-15 that the references do not disclose newly amended limitations. These new limitations require further consideration and/or search.

Applicant essentially argues on pages 15-16 that the Almond reference does not share an object name between development tools. These arguments were addressed on page 4 of the previous Office action. In that action it was pointed out that names must be shared as evidenced by the display of a version number in Almond FIG. 7C. As such, Applicant's arguments are not convincing.


Applicant essentially suggests on page 17 that Wright does not teach generating objects for each device of the control system. However, this limitation appears to be addressed in Wright column 6 lines 29-40 as addressed on page 7 of the previous Office action. Thus, this argument is not convincing.

Further arguments presented on pages 18 and 19 are based on prior arguments, addressed above.

Applicant essentially argues on pages 19-20 that there is no motivation to combine the Atkins reference with the Almond reference. Applicant suggests that Almond does not disclose multiple copies of an object and would not need the "used-by" table taught by Atkins. However, Almond teaches multiple instances of objects (see column 3 lines 19-20). Therefore, a single object may be used in the form of multiple instances and might therefore benefit from Atkins' teaching of concurrency (Atkins column 3 lines 11-13). Therefore, Applicant's argument is not convincing.

It is noted that Applicant has not filed new drawings which comply with 37 CFR 1.121(d) as addressed on page 3 of the prior Office action. New drawings with the proper label are required.

Applicant's arguments/amendments appear to otherwise resolve the objections to claims 6, 11, and 16.



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